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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,086

03/10/2005

Junya Kaku

050073

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23850 7590 06/13/2008  
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EXAMINER

HARVEY, DAVID E

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

06/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,086	<b>Applicant(s)</b> KAKU, JUNYA	
	<b>Examiner</b> DAVID E. HARVEY	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/10/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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**1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.**

**2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 1-2 are is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art" as set forth under the heading "PRIOR ART" on pages 1-2 of the instant specification and Japanese Patent Document #4-324777 to Kitayoshi.**

I. Applicant's admitted "Prior art":

In lines 11-19 on page 1 of the instant specification, applicant describes a "prior art" video content editing apparatus in which a first moving image signal and first audio signal are respectively combined with a second moving image signal and a second audio signal are combined to form respective combined moving image signal and audio signal contents.

In the paragraph stating in the last 6 lines of page 1, applicant notes that when the "prior art" apparatus was used to combine video and audio contents of varying format, the combined respective combined moving image signal and audio signal took on different playback lengths. That is the combined audio content would play for a period longer/shorter that the combined video content.

Claims 1-2 differ from the admitted prior art in that claims 1-2 set forth circuitry for compensating for the differences in playback time.

II. The showing of Kitayoshi:

Kitayoshi has been cited because it discloses an apparatus for synchronizing audio and video components of a presentation having different playback periods. As shown in Figure 1, and described on the cover page, the apparatus comprises:

A) A video memory (@ 1) for storing the image signal component of the presentation;

B) An audio memory (@ 2) for storing the audio signal component of the presentation;

C) Circuitry (@ 3, 4, 8) for detecting the reproduction "size"/length of the image signal component that is stored in the video memory (@ 1);

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D) Circuitry (@5, 6, 9) for detecting the reproduction “size”/length of the audio signal component that is stored in audio memory (@ 2);

E) Circuitry (@ 10) for detecting the difference between the reproduction “size”/length of the respective image signal and audio signal components;

F) **Optimal reading frequency calculating circuitry** (e.g., @ 12 and 15) for calculating and optimal reading “frequencies”/times for the respective video and audio components that are stored in the video and audio memory based on the detected difference in reproduction “size”/length;

whereby the calculated optimal reproduction (i.e. reading) frequencies are “assigned”/provided to reading circuitries of the respective video (@1) and audio (@ 2) memories, via circuitry that not shown in the Figure<sup>1</sup> (i.e., corresponding to the recited “**assignment means**”), for causing the read times of the respective memories to be optimally adjusted such that the reproduction “size”/length of the respective image and audio signal components become equal [Note: the cover page; and Figure 2]

Claims 1-2 differ from the showing of Kitayoshi in that cover page of Kitayoshi does not describe the image signals and the audio signals as being derived from the combining of respective first and second moving image signal contents and respective first and second audio signal contents.

### III. Obviousness:

In using the admitted “prior art” described by applicant, one skilled in the art would have been faced with the unequal playback time problem described by the patent owner when editing files of different format. It would have been well within the level of one of ordinary skill in the art to have turned to the prior art of Kitayoshi to resolve the problem given that correcting such unequal playback problems was what the apparatus described by Kitayoshi was designed to do.

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<sup>1</sup> The examiner maintains that the read circuits of the memories must be adjusted according to the optimum read period and, as such, circuitry must be provided to cause the adjustments to be made.

**4. Claims 3-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.**

**If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.**

**Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).**

**/DAVID E HARVEY/**

**Primary Examiner, Art Unit 2621**

DAVID E HARVEY  
Primary Examiner  
Art Unit 2621